

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 384/2014.

Shri Kishan Hiralal Motwani

-VERSUS-

State of Maharashtra and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.P. Bhandarkar, Advocate for the Petitioner.
Shri A.D. Sonak, A.G.P. for the Respondent Nos. 1 to 3.
Shri Warulkar, Advocate for the Respondent No.4.

CORAM : SMT.VASANTI A. NAIK
AND A.M. BADAR, JJ.

DATE : AUGUST 07, 2015.

By this petition, the petitioner seeks a direction to the respondent nos. 1 to 3 to take action against the respondent no.4, as per the policy framed by the State Government by the resolution dated 12.03.2013. The petitioner seeks a direction to the State Authorities to forfeit the amount deposited by the respondent no.4 for Rakhee sand ghat and also cancel the allotment of the sand ghats at Rakhee, Kathani and Sakhara in favour of the respondent no.4. The petitioner seeks a further direction to the State Authorities to recover the amount of loss caused for re-

2

auction of the Rakhee sand ghat from the respondent no.4, as arrears of land revenue.

The petitioner is in the business of sand excavation and transportation, and claims to be doing his business in Chandrapur and Gadchiroli districts. It is not in dispute that though, the petitioner claims to have participated in the auction held by the government for various sand ghats, the petitioner had not participated in the auction for Rakhee, Kathani and Sakhara sand ghats, with which we are concerned. It is the case of the petitioner, that the respondent no.4 has tendered a bid for an amount of Rs.60,50,000/- for Rakhee sand ghat and though the bid of the respondent no.4 was accepted, the respondent no.4 failed to pay 25% of the amount of the bid on the date of auction. It is the case of the petitioner that the respondent no.4 had tendered a very high bid with an oblique motive and with an intention to cause loss to the State Exchequer. According to the petitioner, the security deposit of the respondent no.4 for Rakhee Sand Ghat is liable to be forfeited and the respondent Authorities should also cancel the allotment of other sand ghats at Kathani and Sakhara, by black listing the respondent no.4. It is stated that the petitioner has a fundamental duty under the provisions of Article 51A of the Constitution of India to safeguard the public property, and hence, the petitioner has filed the instant petition seeking the aforesaid relief.

It is stated on behalf of the respondent nos.1 to 3 by the learned Assistant Government Pleader that the action on the complaint of the

3

petitioner was initiated and the respondents will ensure recovery in accordance with law. It is stated that the petitioner would not have locus standi to file the petition.

Shri Warulkar, the learned counsel for the respondent no.4 has raised a preliminary objection to the tenability of the writ petition. It is stated that the petitioner does not have locus standi to file the writ petition. It is submitted that the petition has not been registered as a Public Interest Litigation. It is further stated that the respondent no.4 did not wish to tender the bid for an amount of Rs. 60,50,000/- for Rakhee sand ghat, but, due to failure of computer which started working suddenly, the bid for Rs.60,50,000/- was mistakenly shown as bid amount. It is submitted that the mistake has occurred inadvertently. It is submitted that no prudent person would give a bid of Rs. 60,50,000/- when the upset price for Rakhee sand ghat is Rs.2,82,600/-. The respondent no.4 has sought for dismissal of the writ petition. It is submitted that the petitioner is involved in many illegal mining activities and has been prosecuted for the same.

On hearing the learned counsel for the parties, it appears that it would be necessary to uphold the preliminary objection raised on behalf of the respondents to the tenability of the writ petition at the behest of the petitioner. The petitioner had admittedly not tendered the bid for either Rakhee sand ghat or for other sand ghats i.e. Kathani or Sakhara. It is not the case of the petitioner that because of the failure on the part of the respondent no.4 to deposit 1/4th amount of

bid on the date of auction, the petitioner is put to loss. Though time and again, time was sought by the learned counsel for the petitioner to take steps to seek registration of the petition as a Public Interest Litigation, the petitioner is not registered as a public interest litigation till date. Today time was not sought on behalf of the petitioner to take any further steps in the matter for seeking registration of the petition as a public interest litigation and the writ petition was worked out on merits. In the circumstances of the case, it would be necessary to hold that the petitioner would not be affected by the non-compliance on the part of the respondent no.4 to deposit 1/4th amount of bid on the date of auction. The petitioner would have been entitled to approach this Court had a fundamental right or any other legal right of the petitioner was violated. The reliance placed by the learned counsel for the petitioner on the provisions of Article 51A (i) of the Constitution of India, is not well founded and on the basis of the said provisions the petitioner cannot be permitted to file a writ petition for the relief as sought. The respondent no.4 has explained in his submissions that due to inadvertent mistake, the bid was shown to be for Rs. 60,50,000/-, though the bid was for an amount of Rs. 6,05,000/-. It is not for us to decide whether there was any mistake in submission of the bid, that would be a matter between the respondent no.4 and the respondent nos. 1 to 3 – authorities. In the affidavit filed on behalf of the respondent Authorities, it is stated that the authorities would take action against the respondent

no.4 in accordance with law. In any case we are not inclined to grant the relief sought in the petition filed by the petitioner, especially when the petitioner does not have any locus standi.

In view of the aforesaid, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

Rgd.